

Date of decision:8-7-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE,J
(8-7-1996)

Mr. Mr. D.J. Bhatt for Mr. V.J. Desai for the petitioner.
Mr. N. N. Pandya for the respondents.

ORAL JUDGMENT:

Heard the learned counsel for the parties.

The petitioner was appointed on 21-2-1976 as Case Writer (Clerk) in the Civil Hospital at Nadiad. Having apprehension of termination of his services, the petitioner filed this special civil application, and prayer has been made for direction to the respondents to regularise his services and to allow him to appear in the examination and for grant of all the benefits of service including deemed seniority in the cadre of clerk. By way of interim relief prayer has been made that the respondents be restrained from terminating the service of the petitioner.

2. In this case rule was issued on 16-10-1984 and interim relief in terms of para 9(B) was granted, meaning thereby, the respondents were restrained from terminating the services of the petitioner. It is not in dispute that the petitioner has continued in service. No reply to the special civil application has been filed by the respondents.

3. This writ petition is premature as no order of termination has been made. The petitioner has already completed about 20 years' service. The respondents allowed him to work for 8 years, and this court allowed the petitioner to work for 12 years by granting interim relief. In view of this position, interest of justice will be met in case this special civil application is disposed of with the direction to respondents that if they consider to terminate the services of the petitioner on any ground, then they will take into consideration whether the petitioner be granted any chance to appear in the departmental examination for continuation in service, and looking to the fact that he has already served the department for 20 years whether he should be exempted from appearing in such examination. The respondents shall also take into consideration the fact that the petitioner having put in 20 years' service, he must have settled in life and in case he is ousted from service he will not be eligible, having become over-aged, to get any other employment in Government service. Subject to the aforesaid observations the petition stands disposed of. Rule discharged. No order as to costs.